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EXAMINER
COFFY, EMMANUEL

ART UNIT	PAPER NUMBER
2157	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/891,393	TOKUE, JUN
	Examiner	Art Unit	
	Emmanuel Coffy	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _26 August 2005_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-9_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-9_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

1.   This action is responsive to the amendment filed on August 26, 2005. Claims 1-9 are pending. No amendments were made to the claims.

Response to Arguments

2.   Applicant requested that that the Examiner discusses how Okabe et al. is being applied to reject claims 6 and 9. In response to said request, applicant is directed to the last Office Action. See last Office Action, page 3, paragraph 5. However, to render the presentation or form of the rejection better, a separate heading has been added as seen below. The rejection is substantially the same as articulated in the last Office Action. Applicant next request that the remarks in the previous response regarding these claims are addressed. Applicant is henceforth advised that these remarks are moot in view of the rejections as articulated in the last Office Action.

3.   Applicant alleges that:

a) "erasing (or deleting) a key for playing back the contents) and a file name" as recited in independent claims 1, 2, 4 and 7 is not taught or suggested by Okabe et al. (See page 6, 2nd paragraph of the remarks) Applicant then alleges that deletion of contents data does not cause the deletion of the playback key data. (See page 6, 3rd paragraph of the remarks.) Applicant further alleges that deletion of contents data does not cause the deletion of a filename. (See page 7, 1st paragraph of the remarks.)

b) Indeed the acronym SDMI appears in Rhoads et al., but the reference does not teach or suggest all of the features recited in claims 2, 3, 5, 6, 8 and 9. Therefore,

Rhoads et al. fails to cure the deficiencies of Hasegawa et al. (See page 7, 4th

paragraph of the remarks.)

c) the Examiner's conclusion of obviousness is based on improper hindsight

reasoning because it includes knowledge gleaned only from applicant's disclosure, as

all of the references, in particular the newly cited reference Okabe et al. lack the

features regarding erasure of a key and a file name and distribution management

according to an SDMI check-in/check-out rule as cited in the independent claims. (See

page 8, 1st paragraph of the remarks.)

4.   In response to a) above, applicant is directed to Okabe col. 8, lines 18-45. In

particular Okabe discloses:

> As shown in Fig. 2, the sale header has a size of 64N+M bytes, which depends
> on the number "N" of tunes in the sale contents, where "M" denotes a
> predetermined natural number. In the sale header, one byte (the 4-th byte) is
> occupied by transfer control data, and K bytes, that is, the (64N+M-K)-th byte to
> the (64N+M-K)-th byte, are occupied by encryption-resultant playback key data
> (secondary encryption-resultant playback key data). Here, "k" denotes a
> predetermined natural number. Col. 8, lines18-26.

Therefore as acknowledged by applicant on page 6 last paragraph of the remarks when

deletion of contents encompasses deletion of the playback key data. Furthermore, the

sale header is a file, it has a name, size and structure.

4.1   In response to b) above, Applicant is advised that 37 CFR § 1.111(c) requires

applicant to "clearly point out the patentable novelty which he or she thinks the claims

presented in view of the state of the art disclosed by the references cited or the

objections made. He or she must also show how the amendments avoid such

references or objections."

4.2   In response to c) above, it must be recognized that any judgment on obviousness

is a sense necessarily a reconstruction based upon hindsight reasoning. But so long as

it takes into account only knowledge which was within the level of ordinary skill in the art

at the time the claimed invention was made and does not include knowledge gleaned

only (emphasis added) from the applicant's disclosure, such a reconstruction is proper.

In re McLaughlin, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971.)

5.   Applicant's arguments have been fully considered but they are not persuasive.

The Examiner maintains the arguments presented in the last Office Action as outlined

below and the rejection is therefore sustained.

The dependent and non-amended claims stand rejected as articulated in the last

Office Action and all objections not addressed in Applicant's response are herein

reiterated.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102
of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject
matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art
to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 1-5, 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable

over Hasegawa et al. (US 6,570,080) in view of Rhoads et al. (US 6,442,285) in further

view of Okabe et al. (US 6,889,208.)

Hasegawa teaches the invention substantially as claimed including a method and

apparatus for making sample contents from music contents whereby server and user

are connected with each other via a communication network, whereby the server

supplies non-sample regular contents including at least performance information of a

music piece and sound information pertaining to the music piece and sample contents

including a sample of part of the non-sample regular contents. (See abstract).

Claim 1:

Referring to claim 1, it recites a contents distribution system comprising: a

contents provider that comprises a contents server and a user information database and

that distributes contents to a subscriber over a communication network, said contents

server storing therein authored contents, said user information database having an area

in which subscriber's contents download information and right information are recorded;

and (See Fig.1, Fig. 2, Fig. 9A, col. 2, lines 55-60).

a portable terminal player, owned by the subscriber, that comprises a recording

medium playback function playing back the contents downloaded to a recording

medium and a playback right return function returning a playback right back to said

contents provider, said playback right allowing the subscriber to play back the

downloaded contents, (See Fig. 9A; col. 14 line 63; col. 12, lines 9-25).

wherein said contents provider manages contents distribution to the subscriber in

such a way that, when the contents are distributed to said portable terminal player of the

subscriber, said contents provider manages a number of downloads of the contents to

the subscriber and, when the subscriber returns the playback right of the distributed

contents back to said contents provider, said portable terminal player erases a key for

playing back the contents and a file name recorded on the recording medium and, at the

same time, returns the playback right to the area in which the right information is

recorded in said user information database. (See col. 7, lines 28-36).

Hasegawa teaches an apparatus for making sample contents from music

contents whereby server and user are connected with each other via a communication

network. Although Hasegawa does disclose a portable terminal player, it does not

however expressly disclosed that the terminal is owned by the subscriber. However,

Rhoads discloses a terminal player owned by the subscriber, which erases a key for

playing back the contents. (See Fig. 1; col. 8, lines 31-32; col. 13, lines 46-51; col. 14,

lines 37-52).

Hence, it would have been obvious at the time of the invention for an artisan of

ordinary skill in the art to use the apparatus for making sample contents taught by

Hasegawa with the copy-proof disclosed by Rhoads because it would provide usage

control restriction from a watermark and control playback.

Neither Hasegawa nor Rhoads expressly discloses a terminal, which erases a

key for playing back the contents. However, Okabe discloses this concept. (See col. 8,

lines 28-45 and col. 10, lines 30-50.)

Hence, it would have been obvious at the time of the invention for an artisan of

ordinary skill in the art to combine the apparatus for making sample contents taught by

Hasegawa and the copy-proof disclosed by Rhoads with the deletion of playback key

disclosed Okabe because it would provide for managing copying the contents data for

copyright even in the case where contents data have been transmitted and downloaded

to a legitimate customer's player.

Claim 2:

Referring to claim 2, it recites A contents distribution system comprising: a

contents provider that comprises a contents server and a user information database and

that distributes contents to a subscriber over a communication network according to an

SDMI (Secure Digital Music Initiative) check-in/check-out rule, said contents server

storing therein authored contents, said user information database having an area in

which subscriber's contents download information and right information are recorded;

and (See Fig.1, Fig. 2, Fig. 9A, col. 2, lines 55-60)

a portable terminal player, owned by the subscriber, that comprises a recording

medium playback function playing back the contents downloaded to a recording

medium and a check-in function returning a playback right back to said contents

provider, said playback right allowing the subscriber to play back the downloaded

contents, (See col. 12, lines 9-25).

wherein said contents provider manages contents distribution to the subscriber

according to the SDMI check-in/check-out rule in such away that, when the contents are

distributed to said portable terminal player of the subscriber, said contents provider

manages a number of check-outs of the contents to the subscriber and, when the

subscriber checks in the distributed contents, said portable terminal player erases a key

for playing back the contents and a file name and, at the same time, returns the

playback right to the area in which the right information is recorded in said user

information database. (See col. 7, lines 28-36; col. 11, lines 28-67).

Hasegawa teaches an apparatus for making sample contents from music

contents whereby server and user are connected with each other via a communication network. Although Hasegawa does disclose a portable terminal player, it does not however expressly disclosed that the terminal is owned by the subscriber and which erases a key for playing back the contents. However, Rhoads discloses SDMI and a portable terminal player owned by the subscriber. (See Fig. 1; col. 4, lines 45-49; col. 8, lines 31-32; col. 13, lines 46-51; col. 14, lines 37-52).

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the apparatus for making sample contents taught by Hasegawa with the copy-proof using SDMI disclosed by Rhoads because it would be useful in protecting the rights of the content supplier and copyright holder.

Neither Hasegawa nor Rhoads expressly discloses a terminal, which erases a key for playing back the contents. However, Okabe discloses this concept. (See col. 8, lines 28-45 and col. 10, lines 30-50.)

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the apparatus for making sample contents taught by Hasegawa and the copy-proof disclosed by Rhoads with the deletion of playback key disclosed Okabe because it would provide for managing copying the contents data for copyright even in the case where contents data have been transmitted and downloaded to a legitimate customer's player.

Claim 3:

Referring to claim 3, it recites a contents distribution system comprising: a contents provider that comprises a contents server and a user information database and

that distributes contents to a subscriber over a communication network and saves and

distributes user-migrated contents into and from the contents server, said user

information database having an area in which subscriber's contents download

information and right information are recorded; and (See Fig.1, Fig. 2, Fig. 9A, col. 2,

lines 55-60).

a portable terminal player, owned by the subscriber, that comprises a recording

medium playback function playing back the contents downloaded to a recording

medium and a check-in function returning a playback right back to said contents

provider, said playback right allowing the subscriber to play back the downloaded

contents, (See col. 12, lines 9-25).

wherein, when the subscriber migrates ripped contents to the contents server of

said contents provider from said portable terminal player according to an SDMI rule,

said contents provider manages a distribution of the migrated contents to the subscriber

according to the SDMI check-in/check-out rule. (See col. 7, lines 28-36; col. 11, lines

28-67).

Hasegawa teaches an apparatus for making sample contents from music

contents whereby server and user are connected with each other via a communication

network. Although Hasegawa does disclose a portable terminal player, it does not

however expressly disclosed that the terminal is owned by the subscriber, and which

erases a key for playing back the contents using SDMI. However, Rhoads discloses

SDMI and a portable terminal player owned by the subscriber. (See Fig. 1; col. 4, lines

45-49; col. 8, lines 31-32; col. 13, lines 46-51; col. 14, lines 37-52).

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the apparatus for making sample contents taught by Hasegawa with the copy-proof using SDMI disclosed by Rhoads because it would be useful in protecting the rights of the content supplier and copyright holder.

Neither Hasegawa nor Rhoads expressly discloses a terminal, which erases a key for playing back the contents. However, Okabe discloses this concept. (See col. 8, lines 28-45 and col. 10, lines 30-50.)

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the apparatus for making sample contents taught by Hasegawa and the copy-proof disclosed by Rhoads with the deletion of playback key disclosed Okabe because it would provide for managing copying the contents data for copyright even in the case where contents data have been transmitted and downloaded to a legitimate customer's player.

Claim 4:

Referring to claim 4, it recites a contents distribution system comprising: a contents provider that comprises a contents server storing therein authored contents and that supplies the contents to a contents distributor; (See Fig. 1, Fig.2)

the contents distributor that comprises a distribution contents server in which the contents supplied from said contents provider are stored and a user information database having an area in which subscriber's contents download information and right information are recorded and that distributes the contents to a subscriber; and (See Fig.1, Fig. 2)

a portable terminal player, owned by the subscriber, that comprises a recording

medium playback function playing back the contents distributed from said contents

distributor and downloaded to a recording medium and a check-in function returning a

playback right back to said contents distributor, said playback right allowing the

subscriber to play back the downloaded contents, (See col. 11, lines 29-54).

wherein said contents distributor manages contents distribution from said

distribution contents server to said portable terminal player according to an SDMI

check-in/check-out rule in such a way that, when the contents are distributed to said

portable terminal player of the subscriber, said contents distributor manages a number

of check-outs of the contents to the subscriber and, when the subscriber checks in the

distributed contents to said contents distributor, said portable terminal player erases a

key for playing back the contents and a file name and, at the same time, returns the

playback right to the area in which the right information is recorded in said user

information database. (See Fig. 9A; col 14, line 63; col. 7, lines 28-39).

Hasegawa teaches an apparatus for making sample contents from music

contents whereby server and user are connected with each other via a communication

network and portable terminal player. Although Hasegawa does disclose a portable

terminal player, it does not however expressly disclosed that the terminal is owned by

the subscriber and which erases a key for playing back the contents using SDMI.

However, Rhoads discloses contents distributor, SDMI and a portable terminal player

owned by the subscriber. (See Fig. 1, Fig. 2; col. 4, lines 45-49; col. 8, lines 31-32; col.

13, lines 46-51; col. 14, lines 37-52).

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the apparatus for making sample contents taught by Hasegawa with the copy-proof using SDMI disclosed by Rhoads because it would be useful in protecting the rights of the content distributor and copyright holder.

Neither Hasegawa nor Rhoads expressly discloses a terminal, which erases a key for playing back the contents. However, Okabe discloses this concept. (See col. 8, lines 28-45 and col. 10, lines 30-50.)

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the apparatus for making sample contents taught by Hasegawa and the copy-proof disclosed by Rhoads with the deletion of playback key disclosed Okabe because it would provide for managing copying the contents data for copyright even in the case where contents data have been transmitted and downloaded to a legitimate customer's player.

Claim 5:

Referring to claim 5, it recites the contents distribution system according to claim 4, wherein the contents distributor further comprises a user contents server in which contents ripped by the subscriber are stored and, when the subscriber directly transmits the contents to said user contents server while ripping and compressing the contents or migrates the contents that have been recorded in the recording medium according to the SDMI rule, said contents distributor manages contents distribution from said user contents server to the subscriber's portable terminal player according to the SDMI check-in/check-out rule. (See Fig. 1, Fig. 2 and Fig 9A, col. 14, line 63).

Hasegawa teaches a user contents server and contents compression and portable terminal player. Hasegawa does not expressly disclose contents distributor, a portable terminal player owned by the subscriber, and which erases a key for playing back the contents using SDMI. However, Rhoads discloses contents distributor, SDMI and a portable terminal player owned by the subscriber. (See Fig. 1, Fig. 2; col. 4, lines 45-49; col. 8, lines 31-32; col. 13, lines 46-51; col. 14, lines 37-52).

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the apparatus for making sample contents taught by Hasegawa with the copy-proof using SDMI disclosed by Rhoads because it would be useful in protecting the rights of the content distributor and copyright holder.

Neither Hasegawa nor Rhoads expressly discloses a terminal, which erases a key for playing back the contents. However, Okabe discloses this concept. (See col. 8, lines 28-45 and col. 10, lines 30-50.)

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the apparatus for making sample contents taught by Hasegawa and the copy-proof disclosed by Rhoads with the deletion of playback key disclosed Okabe because it would provide for managing copying the contents data for copyright even in the case where contents data have been transmitted and downloaded to a legitimate customer's player.

Claim 7:

A portable terminal player that comprises a download function downloading contents to a recording medium, said contents being distributed via a communication

network, a recording medium playback function playing back the contents downloaded

to the recording medium, and a playback right return function returning a playback right

back to a distributor, said playback right allowing the subscriber to play back the

downloaded contents, wherein, when the playback right for playing back the contents

recorded on the recording medium is returned. (See Fig. 2, Fig. 4, Fig. 5, Fig. 7, Fig. 8,

Fig. 9A, Fig. 9B).

Neither Hasegawa nor Rhoads expressly discloses a terminal, which erases a

key for playing back the contents. However, Okabe discloses this concept. (See col. 8,

lines 28-45 and col. 10, lines 30-50.)

Hence, it would have been obvious at the time of the invention for an artisan of

ordinary skill in the art to combine the apparatus for making sample contents taught by

Hasegawa and the copy-proof disclosed by Rhoads with the deletion of playback key

disclosed Okabe because it would provide for managing copying the contents data for

copyright even in the case where contents data have been transmitted and downloaded

to a legitimate customer's player.

Claim 8:

A contents provider that comprises a contents server storing therein authored

contents and a user information database having an area in which subscriber's contents

download information and right information are recorded, wherein, when the contents

are distributed to a portable terminal player of the subscriber, the distribution is

managed according to a number of times the contents are distributed and a registration

of a playback right returned from said portable terminal player to said user information

database, or according to an SDMI check-in/check-out rule. (See Fig.1, Fig. 2, Fig. 9A, col. 2, lines 55-60)

Hasegawa teaches an apparatus for making sample contents from music contents whereby server and user are connected with each other via a communication network. Although Hasegawa does disclose a portable terminal player, it does not however expressly disclosed that the terminal is owned by the subscriber.However, Rhoads discloses SDMI and a portable terminal player owned by the subscriber. (See Fig. 1; col. 4, lines 45-49; col. 8, lines 31-32; col. 13, lines 46-51; col. 14, lines 37-52).

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the apparatus for making sample contents taught by Hasegawa with the copy-proof using SDMI disclosed by Rhoads because it would be useful in protecting the rights of the content supplier and copyright holder.

Neither Hasegawa nor Rhoads expressly discloses distribution management. However, Okabe discloses this concept. (See Fig.1 (MC))

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the apparatus for making sample contents taught by Hasegawa and the copy-proof disclosed by Rhoads with the deletion of playback key disclosed Okabe because it would provide for managing copying the contents data for copyright even in the case where contents data have been transmitted and downloaded to a legitimate customer's player.

7.   Claims 6 and 9 are rejected under 35 U.S.C. §103(a) as being unpatentable over

Hasegawa et al. (US 6,570,080) in view of Rhoads et al. (US 6,442,285.)

Claim 6:

A contents distribution system comprising:

        a contents provider that comprises a contents server storing therein authored

contents and that supplies the contents to a contents distributor;

        the contents distributor that comprises a distribution contents server in which the

contents supplied from said contents provider are stored and a user information

database having an area in which subscriber's contents download information is stored;

(See Fig. 1 and Fig. 2)

        a general server that comprises a user contents server in which the contents

transmitted from said contents distributor or the contents ripped or moved by a

subscriber are stored and a user information database having an area in which

subscriber's right information is recorded and that distributes the contents from said

user contents server to a subscriber's portable terminal player; and (See Fig. 2 and Fig.

6, Fig. 8, Fig. 9A)

        the portable terminal player, owned by the subscriber, that comprises a recording

medium playback function playing back the contents downloaded from said contents

distributor or said general server to a recording medium and a check-in function

returning a playback right back to said general server, said playback right allowing the

subscriber to play back the downloaded contents, (See Fig. 2, Fig. 9A;col. 14, line 63-

col. 12, lines 9-25.)

wherein, when the contents purchased by the subscriber and downloaded to the

recording medium are moved to the user contents server of the general user according

to an SDMI rule or when the subscriber directly transmits the contents to the user

contents server while ripping and compressing the contents or migrates the contents

that have been recorded in the recording medium according to the SDMI rule, said

general server manages contents distribution from said user contents server to the

subscriber's portable terminal player according to the SDMI check-in/check-out rule.

(See col. 7, lines 28-36, col. 11, lines 28-67.)

Hasegawa teaches an apparatus for making sample contents from music

contents whereby server and user are connected with each other via a communication

network. Although Hasegawa does disclose a portable terminal player, it does not

however expressly disclosed that the terminal is owned by the subscriber. However,

Rhoads discloses SDMI and a portable terminal player owned by the subscriber. (See

Fig. 1; col. 4, lines 45-49; col. 8, lines 31-32; col. 13, lines 46-51; col. 14, lines 37-52).

Hence, it would have been obvious at the time of the invention for an artisan of

ordinary skill in the art to use the apparatus for making sample contents taught by

Hasegawa with the copy-proof using SDMI disclosed by Rhoads because it would be

useful in protecting the rights of the content supplier and copyright holder.

Claim 9:

A contents provider that comprises a contents server and a user information

database having an area in which subscriber's contents download information and right

information are recorded, wherein a distribution of the contents to a portable terminal

player of the subscriber and a saving of user's migrated contents to said contents server

as well as a distribution of the user's migrated contents back to said portable terminal

player are performed according to an SDMI check-in/check-out rule. (See Fig. 2, Fig. 3,

Fig. 4, Fig. 5 and Fig. 6.)

Hasegawa teaches an apparatus for making sample contents from music

contents whereby server and user are connected with each other via a communication

network. Although Hasegawa does disclose a portable terminal player, it does not

however expressly disclosed that the terminal is owned by the subscriber and which

erases a key for playing back the contents. However, Rhoads discloses SDMI and a

portable terminal player owned by the subscriber. (See Fig. 1; col. 4, lines 45-49; col. 8,

lines 31-32; col. 13, lines 46-51; col. 14, lines 37-52).

Hence, it would have been obvious at the time of the invention for an artisan of

ordinary skill in the art to use the apparatus for making sample contents taught by

Hasegawa with the copy-proof using SDMI disclosed by Rhoads because it would be

useful in protecting the rights of the content supplier and copyright holder.

7.   **THIS ACTION IS MADE FINAL.**

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Coffy whose telephone number is (571) 272-3997. The examiner can normally be reached on 8:30 - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Emmanuel Coffy
Patent Examiner
Art Unit 2157

***EC
October 13, 2005

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100